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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,575	03/27/2006	Scott W. McLellan	McLellan 20	4833

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MENDELSON, DRUCKER, & ASSOCIATES, P.C.  
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PHILADELPHIA, PA 19102

EXAMINER
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HERRERA, DIEGO D

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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11/23/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/573,575	<b>Applicant(s)</b> MCLELLAN, SCOTT W.	
	<b>Examiner</b> DIEGO HERRERA	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 September 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 2,3,6-8,10-13 and 16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-5, 9, 14-15, 17-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

Title of the invention has been amended as to the response 12/18/2008.

Claims 1 and 9 have been amended.

Claims 2-3, 10, 13, and 16 have been cancelled.

### ***Response to Arguments***

Applicant's arguments with respect to claim1, 4-5, 9, 14-15, and 17-18 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1, 5, 9, and 15 rejected under 35 U.S.C. 102(e) as being anticipated by Hoke, JR. (US 20050143049 A1), hereinafter, Hoke.**

**Regarding claim 1.** a mobile phone set (abstract, title, fig. 1, and 3, Hoke teaches mobile device such as cellular phones, PCS digital cellular phones PDA's, Laptop computers, etcetera...) comprising:

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Mobile-phone-service receiver/transmitter circuitry (§: 4, 6-7, Hoke teaches that the mobile type phone devices are structure so to be transceivers of such services, hence, having receiver/transmitter circuitry in such mobile devices described therein);

a global positioning system receiver circuit for obtaining coordinates that identify location of the mobile phone (§:12-14, Hoke teaches that the WCD's or wireless connectivity devices may be equipped with GPS systems, transmitting the location of WCD, on the 406 MHz frequency as well, hence, GPS receiver circuit in WCD for obtaining location of mobile phone);

a personal Locator beacon transmitter circuit which transmits a beacon at a frequency of approximately 406 MHz that includes the location coordinates from the global positioning system receiver circuit and an identification code selected from a serial number and a phone number of the mobile phone set (abstract, title, fig. 1-3, §: 12-13, 29, 31, 34-35, Hoke teaches WCD's with PLB and GPS circuitry that transmit information signal with ESN or ANI and a unique 32-bit number programmed into the phone when it is manufactured, PLB is transmitting approximately at 406 MHz such is the frequency of the emergency broadcast spectrum in consort with the COSPAS-SARSAT satellite system); a microprocessor coupled to Mobile-phone-service receiver/transmitter circuitry, a global positioning system receiver circuit, and the personal locator beacon transmitter circuit (§: 30, Hoke teaches the vast amount of configuration within a mobile device as to coupling between microprocessor and PLB transmitter) and configured to activate the personal locator beacon transmitter circuit only when there is no mobile phone service available and a user of the mobile phone

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set requests emergency service (abstract, title, ¶: 7, 25-27, 35; Hoke teaches as described in abstract, "The above actions being initialized by end users of wireless connectivity devices where regular wireless connectivity is not available.").

a disclose a short range transceiver coupled to the personal locator beacon transmitter circuit and the microprocessor such that the beacon includes emergency information received through the short range transceiver from a device external to the mobile phone set (¶: 31-33, Hoke, as pointed out by appellant, has the Bluetooth device communicates with mobile device capability, hence, having an external device communicating with mobile phone set via short range as it is known in the art that Bluetooth technology is based on short range transceiver communication and as pointed out on ¶: 33 emergency relevant information can be inputted through such means).

**Regarding claim 9.** Hoke discloses a method of requesting emergency service on a mobile phone handset (abstract, title, fig. 9, col. 6 lines: 4-18, 30-38, teaches a mobile phone set and/or PLB, personal location beacon) comprising the steps of: determining whether mobile phone service is available using mobile-phone-service receiver/transmitter circuitry (¶: 4, 6-7, Hoke teaches that the mobile type phone devices are structure so to be transceivers of such services, hence, having receiver/transmitter circuitry in such mobile devices described therein):  
Obtaining coordinates that identify location of the mobile phone handset using a global positioning system receiver circuit of the mobile phone handset (¶:12-14, Hoke teaches

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that the WCD's or wireless connectivity devices may be equipped with GPS systems, transmitting the location of WCD, on the 406 MHz frequency as well, hence, GPS receiver circuit in WCD for obtaining location of mobile phone);

When mobile phone service is unavailable and a user of the mobile phone handset requests emergency service (abstract, title, ¶: 7, 25-27, 35; Hoke teaches as described

in abstract, "The above actions being initialized by end users of wireless connectivity devices where regular wireless

connectivity is not available."), transmitting, using a personal locator

beacon transmitter circuit of the mobile phone handset (fig. 1-3, abstract, title, ¶: 9), a

beacon at a frequency of approximately 406 MHz that includes the location coordinates

from the global positioning system receiver circuit (¶:12-14, Hoke teaches that the

WCD's or wireless connectivity devices may be equipped with GPS systems,

transmitting the location of WCD, on the 406 MHz frequency as well, hence, GPS

receiver circuit in WCD for obtaining location of mobile phone) and an identification

code selected from a serial number and a phone number of the mobile phone handset

(abstract, title, fig. 1-3, ¶: 12-13, 29, 31, 35, Hoke teaches PLB that transmit information

signal with ESN or ANI, and a unique 32-bit number programmed into the phone when it

is manufactured, PLB is transmitting approximately at 406 MHz such is the frequency of

the emergency broadcast spectrum in consort with the COSPAS-SARSAT satellite

system).

receiving emergency information from a device external to the mobile phone handset

through a short range transceiver located in the mobile phone handset, wherein the

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beacon includes the received emergency information (¶: 31-33, Hoke, as pointed out by appellant, has the Bluetooth device communicates with mobile device capability, hence, having an external device communicating with mobile phone set via short range as it is known in the art; that Bluetooth technology is based on short range transceiver communication and as pointed out on ¶: 33 emergency relevant information can be inputted through such means).

**Consider claim 5.** A phone set according to claim 4, further comprising a microphone coupled to the personal Locator beacon transmitter circuit such that the homing signal includes voice transmission (¶: 31, 34, Hoke teaches receiving information such as digitized voice and text information with other pertinent data as to the emergency or special considerations).

**Consider claim 15.** The method according to claim 14, wherein voice transmission is included with the homing signal (abstract, title, fig. 1-3, ¶: 31, 34; Hoke teaches receiving information such as digitized voice and text information with other pertinent data as to the emergency or special considerations).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 4 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoke (US 20050143049 A1), and in view of Boling et al. (US 20060007038 A1).**

**Consider claim 4.** A phone set according to claim 1, However, Hoke does not specifically discloses wherein the personal Locator beacon transmitter circuit also transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz; nevertheless, Boling et al. teaches two way distress alert and emergency location apparatus and method (abstract, ¶: 32, 33, Boling et al. teaches mobile device including receiver preferably operating at about 1.2 GHz and 2.5 GHz). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include the frequencies to be used signal bandwidth to transmit information specifically directed to a particular alert device (¶: 34).

**Consider claim 14.** The method according to claim 9, However, Hoke does not specifically discloses wherein the personal locator beacon transmitter circuit transmits a homing signal at a frequency selected from approximately 121.5 MHz and 243 MHz; nevertheless, Boling et al. teaches two way distress alert and emergency location apparatus and method (abstract, ¶: 32, 33, Boling et al. teaches mobile device including



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receiver preferably operating at about 1.2 GHz and 2.5 GHz). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include the frequencies to be used signal bandwidth to transmit information specifically directed to a particular alert device (§: 34).

**Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoke (US 20050143049 A1), and in view of Sakurai et al. (US 20020183904 A1).**

**Consider claim 17.** The method according to claim 9, wherein:

the combination may not disclose the short range transceiver communicates with a black box recorder of a vehicle; and the beacon includes emergency information received from said black box, nevertheless, the examiner maintains that it was well known in the art at the time the invention was made and taught by Sakurai et al. (abstract, title, fig. 1, 6-8, §: 52, 56-57, 77; Sakurai et al. teaches ECU or better known as a black box recorder having short range transceiver device sending information related to distress or emergency). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include ECU or better known as a black box recorder in vehicle having short range transceiver device sending information related to distress or emergency, as taught by Sakurai et al. for the purposes of sending information regarding distress or emergency (§: 53). One ordinary skilled in the art would be motivated to apply the invention of Sakurai et al. as it enhances the invention of Hoke by providing communication between the mobile and the vehicles ECU or black box, since the invention of Hoke teaches Bluetooth and/or short-range communication it is seamless to communicate with a vehicle equipped with

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a ECU and transceiver to communicate with mobile device and then using the PLB transceiver to communicate such emergency information or beacon signal.

**Consider claim 18.** A phone set according to claim 1, wherein:

Hoke may not disclose the short range transceiver communicates with a black box recorder of a vehicle; and the beacon includes emergency information received from said black box, nevertheless, the examiner maintains that it was well known in the art at the time the invention was made and taught by Sakurai et al. (abstract, title, fig. 1, 6-8, ¶: 52, 56-57, 77; Sakurai et al. teaches ECU or better known as a black box recorder having short range transceiver device sending information related to distress or emergency). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to specifically include ECU or better known as a black box recorder in vehicle having short range transceiver device sending information related to distress or emergency, as taught by Sakurai et al. for the purposes of sending information regarding distress or emergency (¶: 53). One ordinary skilled in the art would be motivated to apply the invention of Sakurai et al. as it enhances the invention of Hoke by providing communication between the mobile and the vehicles ECU or black box, since the invention of Hoke teaches Bluetooth and/or short-range communication it is seamless to communicate with a vehicle equipped with a ECU and transceiver to communicate with mobile device.

### ***Conclusion***

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIEGO HERRERA whose telephone number is (571)272-0907. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lester Kincaid can be reached on (571) 272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Diego Herrera/  
Examiner, Art Unit 2617

/LESTER KINCAID/  
Supervisory Patent Examiner, Art Unit 2617